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FILED

DISTRICT COURT OF GUAM

SEP 22 2005

MARY L.M. MORAN
CLERK OF COURT

9 **IN THE UNITED STATES DISTRICT COURT OF GUAM**

10 **TERRITORY OF GUAM**

11 **CESS NAVARRO OLMO and**
12 **RONNIE FERRERAS,**

Civil Case No. 05-00025

13 Plaintiffs,

PLAINTIFFS' NOTICE OF PRELIMINARY
OBJECTION TO TRANSFER OF CASE AS
TAG-ALONG ACTION

14 v.

15 **A. P. GREEN INDUSTRIES, INC., et al.,**

16 Defendants.

17

18 1. Counsel for defendant Owens-Illinois, Inc., filed on September 15, 2005, a Notice of
19 Tag-Along Action stating that this case "is a potential 'tag-along action' which may be subject to
20 transfer to the Eastern District of Pennsylvania."

21 2. In anticipation that the Clerk of the District Court may issue a Conditional Transfer
22 Order in accordance with the provisions of Rule 7.4 of the Rules of Procedure of the Judicial
23 Panel on Multidistrict Litigation, the Plaintiffs preliminarily note their objection to the transfer of
24 this case as a tag-along action.

25 3. The Plaintiffs will timely file their objection as required by Rule 7.4 within 15 days
26 of their receipt of a Conditional Transfer Order.

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4. The Plaintiffs are two terminally ill and aged men presently residing in the Philippines.

5. The Plaintiffs submit that the transfer of this case to the Eastern District of Pennsylvania would not serve the convenience of the parties and witnesses or promote the just and efficient conduct of the litigation. *In re Midwest Milk Monopolization Litigation*, 483 F. Supp. 823, 824 (J. Panel on MDL 1980); *In re A.H. Robins Co., Inc.*, 505 F. Supp. 221, 223 (J. Panel on MDL 1981).

6. The Plaintiffs further submit that a transfer is unwarranted because the differences between Plaintiffs' case and those cases that have been consolidated in the Eastern District of Pennsylvania outweigh any similarities. *In re Amino Acid Lysine Antitrust Litigation*, 910 F. Supp. 696, 701-702 (J. Panel on MDL 1995).

Dated this 22nd day of September, 2005.

Respectfully submitted,

LUJAN UNPINGCO AGUIGUI & PEREZ LLP

By:

AGNACIO C. AGUILAR, ESQ.
Attorneys for Plaintiffs

**Cess Navarro Olmo and Ronnie Pascual Ferreras
vs. A.P. Green Industries, Inc., et al.
Civil Case No. 05-00025**